

Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: **202004020**

Release Date: 1/24/2020

Date: October 29, 2019

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

U = company
V = county
W = county
X = country
Y = state
z dollars = amount

UIL:

4945.04-04

Dear :

You asked for advance approval of your scholarship and educational grant procedures under Internal Revenue Code Section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax.

Our determination

We approved your procedures for awarding scholarships and educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships and educational grants meet the requirements of Code Section 4945(g)(1) and 4945(g)(3), respectively. As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

Description of your request

4945(g)(1) Scholarship Program

You may award, annually, a limited number of scholarships to individuals over the age of eighteen years who reside in the United States or abroad.

Scholarships shall be granted to graduates of a United States high school or the equivalent baccalaureate degree in non-United States countries. Students shall be actively enrolled and attending an accredited two- or four-year public or private nonprofit university or other institution of higher education or a post-secondary vocational or technical program in the United States or abroad (especially in X) at the time of granting of the scholarship. Scholarships will be awarded to those pursuing an undergraduate associate or bachelor's degree, a graduate degree or vocational or technical certification. Scholarships shall be granted for the purposes of paying tuition and fees required for the attendance at a university, college or other educational organization described in Section 170 (b)(1)(A)(ii) of the Internal Revenue Code and for fees, books, supplies and equipment required for courses of instruction at educational organizations described in Section 117(b) of the Internal Revenue Code. Scholarship funds may not be used for dormitory or residential living expenses. Scholarships may also be awarded for travel costs (but not commuting expenses) in connection with study at an accredited private or public university or other institution of higher education in the United States or abroad.

Scholarships may range in size from a few hundred dollars (the cost in X currency) up to % of the cost of tuition at a public university or a private nonprofit university in the United States or in X - which would qualify under an equivalency determination as a Section 170(b)(1)(A)(ii) educational institution. You intend to award approximately - scholarships per year, of which a majority are to be awarded to students attending X universities. The remainder are scholarships to be awarded to students attending United States public universities, private nonprofit universities or post-secondary vocational or technical schools which are Section 170(b)(1)(A)(ii) educational institutions. The scholarships may be renewed each year for up to three additional years of study as long as the student applicant maintains a GPA of 3.0 or higher in the previous year and continues to meet the other requirements of the scholarship.

The scholarships will be awarded on an objective and nondiscriminatory basis. Your Board of Trustees has adopted very specific, detailed procedures and guidelines for your program that an applicant must meet to be considered. Applicants will be considered based on academic achievement, work experience, meritorious accomplishment, performance on standardized tests, field of study, financial need, third party recommendations and evidence of the individual's motivation, character, ability and potential drawn from these recommendations. A preference for the scholarship award will be given to individuals resident in Y, with priority given to those from V and W Counties and to individuals of X descent. Because scholarships will not exceed % of the total tuition costs, the applicant must provide evidence of other sources of funding to cover the remaining tuition costs. Each scholarship will be paid directly to the college, university or other institution of higher learning. If payment is made directly to the awardee, proof of payment to the attending educational institution must be provided to you.

The successful applicant will be provided with a scholarship award letter, which shall require the use of the scholarship for "qualified tuition and related expenses" under Section 117(b) of the Internal Revenue Code, such as tuition and related expenses, or

fees, books, supplies, and equipment, but not for dormitory or residential living expenses. The scholarship award, however, may include travel expenses for which the applicant demonstrates a need in order to arrive at the university or post-secondary educational institution or to return home at the end of a term, but cannot be used to cover commuting expenses. Such travel expenses will be paid by you to a third party vendor for the benefit of the awardee. The award also requires that you receive a report from the high school or baccalaureate-granting institution confirming attendance and a written and verified (and sealed) Registrar's Statement from the college, university or higher educational institution concerning the courses taken and grades received for each academic period. If such report is not provided by the scholarship applicant or if the scholarship award is used for expenses other than qualified tuition and related expenses under Code Section 117, then you reserve the right to terminate any scholarship award not yet paid, to not renew the scholarship, and to use reasonable efforts to seek repayment of the amounts already paid on behalf of the applicant.

If you suspect funds were not used for qualified tuition and related expenses, then you will withhold further payments until you have been assured that funds have not been used for an improper purpose. These assurances may include written assurances from an awardee and/or an awardee's supervising faculty or mentor that future diversions of funds for an improper purpose shall not occur, as well as the awardee's agreement to the implementation of certain precautionary procedures to prevent any possible future diversions.

The scholarship may be paid directly to the attending college, university or other institutions of higher education or directly to the awardee. Payment shall only be made upon presentation by the awardee of an invoice for qualified tuition and related expenses as herein noted. The educational institution must agree to use the funds received from or on behalf of the student to defray the qualified tuition and related expenses.

4945(g)(3) Grant Program

You have stated that you will also provide grants, the purpose of which is "to achieve a specific objective, produce a report, or other similar product, or improve or enhance a literary, artistic, medical, scientific, teaching or other similar capacity, skill or talent of the grantee". Grants will be made to post-graduate students in the United States or abroad, residents in Y and/or of X descent, for the purpose of giving a lecture or presenting a white paper at a university or attending a seminar or professional conference in their field of study to improve their skills and knowledge base.

You anticipate that you may award up to _____ of these grants per year with the average size of the grant ranging from a few hundred dollars up to a maximum of z dollars. Grants may include attendance fees, travel and hotel expenses, if needed.

The grants will be awarded on an objective and nondiscriminatory basis. Applicants must submit proposals with an Executive Summary, a Needs Statement, Short-term and Long-term Goals, and a proposed Budget. Applicants will be considered based on academic

achievement and/or work experience, financial need, third party recommendations and evidence of the individual's motivation, character, ability and potential drawn from these recommendations. A preference for a grant award will be given to individuals resident in Y, predominantly from V and W Counties, and to individuals of X descent.

You will require a final report from all grant recipients on the achievement of the intended objective and on the expenditures of all grant funds. The grant award procedures will allow you to recoup grant dollars if the grant agreement terms are breached. You will use reasonable efforts to recoup grant dollars if they are not used as intended in the grant award letter.

Applications for either program will be reviewed, approved and/or rejected by your Board of Trustees, or by a Scholarship Committee or Grants Committee established by your Board of Trustees. These committees will, at a minimum, include one of your Trustees and shall be comprised of individuals who have an interest or expertise in the pursuit of higher education by young persons in the X community.

Decisions will be made based upon the criteria documented by the procedures and guidelines set forth. Among these procedures is the requirement that no person on the Board of Trustees, the Scholarship Committee, or the Grants Committee deciding on awards may participate in a review of, or in a vote on, a scholarship or grant application of a family member or friend. The procedures also directly prohibit the making of any scholarship or grant to any disqualified individual. In addition, although children of employees working for at least _____ years for related companies, such as U, that are controlled by one or more your Trustees, may also apply for these post-secondary awards, the children of officers or directors of such companies will not be eligible. The requirements for such applicants will be the same as any other applicant. However, the applications of these individuals will be evaluated by an unrelated third party, consultant or corporation solely for the purpose of evaluating these applications on a blind basis. The recommendations of this third party evaluator will be recognized and accepted by the Scholarship or Grants Committee.

You will exercise expenditure responsibility with respect to X universities or higher education institutions to determine whether the university or higher education institution abroad is the equivalent of a United States university under Section 170(b)(1)(A)(ii) in that it maintains a regular faculty and has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

For your programs, you represent you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and (4) withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You represent that you will (1) maintain all records relating to individual grants including information obtained to evaluate grantees, (2) identify whether a grantee is a disqualified person, (3) establish the amount and purposes of each grant, and (4) establish that you undertook the supervision and investigation of grants described above.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to the provisions of Code Section 117(a).
- The grant is to be used for study at an educational organization described in Code Section 170(b)(1)(A)(ii); or
- To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, medical, scientific, teaching, or other similar skill or talent of the recipient.

Other conditions that apply to this determination

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).

- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements